REMARKS

Claims 1-104 are pending in the application.

Claims 1-104 stand rejected.

Claims 1, 5, 16, 27, 31, 42, 53, 57, 68, 79, 83 and 94 have been amended.

Rejection of Claims under 35 U.S.C. § 102

Claims 1-104 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Arikawa, *et al.*, U.S. Patent No. 6,754,215 ("Arikawa"). Applicant respectfully traverses this rejection.

The Office Action relies upon Arikawa in rejecting each of Claims 1-104. While not conceding that Arikawa is prior art, but instead to expedite prosecution, Applicant has chosen to traverse-in-part and, in part, overcome the Examiner's rejection by amendments that more clearly distinguish the claims over Arikawa. Applicant's amendments are made without prejudice to Applicant's right to establish, for example in a continuing application, that Arikawa is not prior to an invention now or hereafter claimed.

Independent Claims 1, 27, 53, and 79: Applicant respectfully submits that Arikawa does not disclose each limitation of independent Claims 1, 27, 53, and 79, as amended, and therefore Arikawa cannot anticipate those claims or any claims that depend therefrom. In the below discussion, Applicant further responds to the positions expressed in the Office Action.

Claims 1, 27, 53, and 79 have been amended to clarify that sorting incoming packets ultimately into queues is at least a two-tiered operation, including classifying a packet according to one of a plurality of classifications and then storing a packet into one of a plurality of flow behavior queues associated with the determined classification. That is, each classification can

have more than one flow-behavior-distinguished queue. Applicant submits that Arikawa only discloses sorting packets by class and does not disclose distinguishing packets by flow behavior within a class as is claimed.

For at least the above reasons, Applicant respectfully submits that Claims 1, 27, 53, and 79, as amended, and all claims dependent therefrom (Claims 2-26, 28-52, 54-78, and 80-104), are in condition for allowance and request Examiner's indication of same.

Dependent Claims 5, 31, 57, and 83: These dependent claims have been amended to further clarify their distinction from Arikawa as cited by the Office Action. The Office Action suggests that Arikawa discloses a weight dynamically calculated according to a network traffic condition, and cites to lines 1-4 of the Abstract. *See* Office Action, pg. 3. Applicant respectfully submits that the Abstract merely states that a weight value corresponds to a predetermined minimum guaranteed bandwidth, as is also discussed further within Arikawa. For example, modifications made to a weight count include predetermined weights, W_i, and are made in response to whether a packet can be sent under current weight count values or if a current cycle reaching a maximum number of cycles. *See, e.g.*, Arikawa 7:2-27. Applicant respectfully submits that this is not a "network traffic condition" as that term is defined in the application.

In order to further emphasize the distinction between the claimed network traffic condition and the disclosure in Arikawa, Applicant has amended the above-referenced dependent claims to include a selection of network traffic conditions. Applicant respectfully submits that Arikawa does not contain disclosure of any of the included specific network traffic conditions. For at least these reasons, and those discussed with regard to the associated independent claims, Applicant respectfully submits that Claims 5, 31, 57, and 83, as amended, are in condition for allowance and requests Examiner's indication of same.

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Dependent Claims 16, 42, 68, and 94: These dependent claims have been amended to further clarify their distinction from the disclosure in Arikawa cited by the Office Action. The Office Action suggests that the value C_{max} disclosed in Arikawa corresponds to the claimed scheduling threshold. Applicant respectfully submits that C_{max} does not correspond to a scheduling threshold as intended by the application. As disclosed, C_{max} is a maximum repeat count of priority class selection. *See* Arikawa 8:40-42. C_{max} limits the number of repetitions for reading queue values of a particular class. Should the repetition value reach C_{max}, then Arikawa modifies weight count values for all classes. *See* Arikawa 9:45-10:24.

In order to further clarify the distinction between these dependent claims and C_{max} in Arikawa, Applicant has amended these claims to specify that the claimed scheduling threshold is a percentage of a length of the non-adaptive aggressive flow behavioral queue. Applicant respectfully submits that Arikawa contains no disclosure of such a scheduling threshold. For at least these reasons, and those expressed above for the related independent claims, Applicant respectfully submits that Claims 16, 42, 68, and 94, as amended, and all claims dependent therefrom (Claims 17-26, 43-52, 69-78, and 94-104), are in condition for allowance and respectfully request Examiner's indication of same.
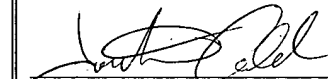
Dependent Claims 6, 32, 58, and 84: The Office Action cites the abstract of Arikawa for the proposition that weighting is based on a proportion of a size of the plurality of behavioral queues. Applicant respectfully submits that Arikawa does not disclose weights based on a proportion of the size of a queue. Applicant submits that Arikawa's disclosed "weight count" depends on an amount of data in a queue, not the "weight" itself as claimed in the referenced dependent claims. Arikawa makes a distinction between "weight count" and "weight", where weight is defined as W_i and weight count is defined as WC_i. *See* Arikawa 8:48-54. Arikawa
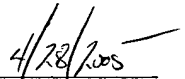
then discloses that WC_i is modified according to an amount of data in a queue. *See* Arikawa 9:24-27 ("the i-th weight counter 43 is made to subtract packet length Length informed from the i-th queue from the current weight count value WC_i, thereby a renewed weight count value is given"). Arikawa also discloses that weight W_i is a predetermined value, and Applicant finds no suggestion within Arikawa that weight W_i can be based on or modified according to a proportion of a size of a behavioral queue. *See, e.g.*, Arikawa 9:50-53 ("The first to N-th weight counters 43_1 to 43_N, respectively, receiving this addition instruction signal 54 add a predetermined weight value W_i to the current weight count value WC_i."). Applicant therefore respectfully submits that in light of this distinction between "weight count" and "weight" in Arikawa that Arikawa does not disclose all the limitations of Claims 6, 32, 58 and 84 and therefore those claims are in condition for allowance and Applicant respectfully requests indication of same.
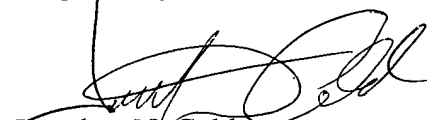
CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5090.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 28, 2005.

_____   4/28/2005 _____
Attorney for Applicants   Date of Signature

Respectfully submitted,

Jonathan N. Geld
Attorney for Applicants
Reg. No. 44,702
Telephone: (512) 439-5090
Facsimile: (512) 439-5099